

OVERBERG

DISTRICT MUNICIPALITY

SUBSTANCE ABUSE POLICY



Council Resolution No:
Date:
Municipal Manager:
Executive Mayor
Reference No:
Municipal Code No:

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1. PURPOSE

The Employer recognises that an employee, who admits to alcohol or drug dependence, should be offered support and rehabilitation. The policy is to support processes that will allow for rehabilitation, and to ensure a uniform and consistent approach ~~to~~ in dealing with incapacity caused by substance abuse. It is also to provide guidelines ~~for~~ in dealing with employees who are found to be under the influence of alcohol or drugs whilst performing their duties.

It should be noted however that being under the influence of alcohol or drugs whilst performing duties is a serious offence. The Employer cannot condone such offences and, where dependence is not proved, the disciplinary procedure will be invoked.

2. DEFINITIONS

'substance' - referred to in substance abuse include alcohol, marijuana (cannabis or dagga), solvents, prescription drugs such as analgesics, cough syrups, diet preparations and stimulants, which may or may not be taken with direct medical supervision, as well as illicit drugs, such as marijuana, cocaine, ecstasy, tik, but the list is not exhaustive.

'workplace' - include all the employer properties, as well as any situation, inside or outside of normal working hours, where the employee is identified as part of, or acting as a representative of the Employer, e.g. off-site work functions, public relations functions, meetings, but the list is not exhaustive.

'zero tolerance' - the act of punishing all criminal or unacceptable behaviour severely, even if it is not very serious, and/or a particular type of behaviour or activity, they will not tolerate it at all. The refusal to accept antisocial behaviour, typically by strict and uncompromising application of the law.

3. GENERAL PRINCIPLES

The Overberg District Municipality has a policy of zero tolerance on the use ~~of~~ or under the influence of illegal substances, including marijuana (cannabis or dagga), drugs and narcotics, by any employee.

The Employer does not condone the use of illegal substances, including marijuana (cannabis or dagga), drugs and narcotics, by any employee. The employer's premises are not 'private' and therefore prohibit the possession and use of dagga at the workplace.

In ~~addition~~ addition, any employee who is under the influence of alcohol or any drugs at the workplace is a potential danger, not only to him/herself, but also to fellow employees and the public.

The Employer may assist an employee who is willing to accept diagnosis and/or co-operate with treatment procedures. Such assistance may include counselling and accommodation with time off, within reasonable limits, ~~for counselling will be considered~~. Sick leave and/or annual leave may be used to undergo rehabilitation at an institute, depending on circumstances.

An employee who is undergoing treatment for substance abuse, either through the employer's Employee Assistance Programme (EAP) or through private programmes, shall

not be exempt from normal disciplinary action arising out of any substance abuse related offences, including being under the influence of alcohol or drugs whilst on duty, abusing sick leave or time keeping abuses.

4. GUIDELINES FOR MANAGING SUBSTANCE ABUSE

When management suspects that an employee maybe under the influence and/or involved in taking drugs/alcohol (substance) at work, the following procedures will apply:

4.1 Prohibit ongoing work

If management or any member of staff is of the opinion that an employee has diminished responsibilities as a result of being under the influence of a substance whilst at work, the Manager must be informed immediately and after the Manager is sure about proof of abuse/intoxication, as stipulated in 4.2, the employee will be prohibited from continuing work and taken home by the employer. Unpaid leave will be granted for the rest of the day.

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Under no circumstances should the employee take responsibility for performing his/her duties when under the influence of any intoxicating substance. Special attention should be given to those employees who drive vehicles, operate machinery and plant.

4.2 Proof of Intoxication Abuse

Attempts must be made to establish the employee's inability to perform his/her duties due to under the influence of a substance and/or consumption thereof at work.

Employers may continue to conduct random tests for alcohol and substance use or test an employee ad hoc if there is reason to suspect that the employee may have consumed substances that are forbidden at work. The employer may make use of breathalyser apparatus and/or blood tests, by a qualified medical nurse/practitioner. Anyone who is found to have THC (tetrahydrocannabinole) in his or her system after a saliva test, will be guilty of a disciplinary transgression. The employee's physical appearance, e.g. blood shot eyes, slurred speech, unsteady on his/her feet, smell of substance on breath and impaired co-ordination is all important indicators. Should the employee not give a reasonable and acceptable explanation for these physical signs, it must be recorded and used as evidence in an enquiry. There should be at least two indicators present of being under the influence of a substance.

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The supervisor/manager needs to obtain a second opinion to support his/her perception that the employee appears to be under the influence of a substance. The second opinion can come from a fellow employee or union representative. Where management has breathalyser facilities and/or any other test available, the employee is requested to undergo the test. The assistance of the Traffic Department of the B-Municipality, for a breathalyser test and issuing of a certificate as proof of substance abuse, can be used. Wherever possible, a union representative or fellow employee should be present when such a test is performed.

Should an employee refuse to take a breathalyser or any other test, he/she must give reasons for his/ her refusal:

- He/ she must be warned that an adverse inference will be drawn from the refusal.
- In addition, he/she must be warned that such refusal can, in itself, result in disciplinary action being taken.

- A medical examination may be arranged where blood and/or urine tests may be undertaken (consent of the employee must be obtained in writing where possible).

The breathalyser is not able to record drug usage therefore ~~the Doctor's urine/blood tests another test, like a saliva test,~~ are needed. ~~If a Doctor's test is not possible the opinion of an independent observer of the employee's physical appearance will support management in its suspicion of alcohol/drug influence.~~ Tests must comply with section 7 of the Employment Equity Act, No 55 of 1998.

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5. DISCIPLINARY PROCEDURES

~~If there is proof on a balance of probabilities that an employee is under the influence of dagga and/or other substances,~~ the employer would be entitled to take disciplinary action.

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Disciplinary procedures are followed when the employee's conduct and/or performance is unsatisfactory due to substance abuse. Such conduct may include abuse of sick leave, time keeping abuses, consuming or being under the influence of alcohol or drugs whilst on duty.

The employee will be given notice in terms of the standard disciplinary procedure, to attend an enquiry in which his/her alleged offence will be heard. The enquiry may only take place once the employee is sober - i.e. the enquiry cannot take place immediately in the case of an employee who is being charged with being under the influence of alcohol or drugs.

In the event that an employee admits to a substance dependency during the course of the disciplinary enquiry, the chairperson may take this into account in relation to the penalty imposed on the employee. In the event that the penalty is not dismissal, the employee shall may be referred to the EAP programme for treatment and rehabilitation.

Attendance at such a programme shall not exonerate the employee from further disciplinary action should similar offences arise during the period of treatment.

6. INCAPACITY/POOR PERFORMANCE PROCEDURES

Should an employee admit to a substance abuse problem during the course of counselling for incapacity or poor performance, the employee shall be referred to the HR Department (EAP) for evaluation for possible treatment and rehabilitation.

This treatment shall form part of the intervention to improve the employee's performance. Agreed performance targets shall be set for the employee to reach within a set timeframe. These targets may be reviewed in conjunction with the employee, employer and HR Department.

Off site professional charges for treatment programmes, will be for the account of the employee, except when charges are approved through the Employee Assistance Programme.

Should the employee renege on the treatment programme or relapse into substance abuse at a later stage which impacts on his/her performance, he/she may face dismissal for incapacity.

7. EFFECTIVE DATE

This policy shall come into effect on the date which it was adopted by Council and shall remain in full force and effect until it is reviewed, revoked or amended by Council.

8. ROLES

The policy applies to all employees.

9. RELATED POLICIES/LEGISLATION

- Code of Good Practice, Schedule 8 of the LRA, 1995
- Main Collective Agreement (SALGBC)
- [Employment Equity Act, no 55 of 1998](#)
- Employee Assistance Programme Policy
- [Disciplinary Procedure Collective Agreement](#)
- [Municipal Systems Act, no 32 of 2000, schedule 2 \(Code of conduct for Municipal staff members\)](#)
- [Occupational Health and Safety Act, no 85 of 1993](#)
- [National Road traffic Act No. 93 of 1996](#)
- [Medicines Act](#)
- [Drug Act](#)